HONOURABLE SRI JUSTICE GOPALAKRISHNA TAMADA.

WRIT PETITION NO:33721 OF 1998

Dated: 21-03-2007

Between

1.Ganta Swamy Reddy & others

..Petitioners

and

1.Collector, Kurnool, Kurnool District & another

…Respondents

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WRIT PETITION NO:33721 OF 1998

ORDER:

The petitioners have preferred the writ petition seeking for a writ of mandamus to declare the acquisition of land of an extent of Ac.2.09 cents in S.Nos.320/C2, 321/A and 322/C1 of Vempenta village, Pamulapadu Mandal, Kurnool District under a notification under section 4 (1) of the Act published by the 1st respondent in Eenadu Daily dated 18.11.1998 as illegal and arbitrary.

The facts leading to the filing of the writ petition are that the 1st petitioner owns an extent of Ac.0.67 cents in S.No:320/C1 and Ac.0.35 cents in S.No:321/A of Vempenta village and the 2nd petitioner owns an extent of Ac.0.25 cents in S.No:321/A and the 3rd petitioner owns an extent of Ac.0.30 cents in S.No:321/A and Ac.0.48 cents in S.No:322/C1. The 1st respondent proposed to acquire the land of the petitioners as notified under section 4 (1) of the Act for the purpose of providing house sites to the members of the Scheduled Caste and Weaker Sections. By invoking the urgency clause under section 17 (4) of the Land Acquisition Act, the enquiry under section 5A of the Act was dispensed with. But, there is no such urgency to invoke the urgency clause. Apart from that, other lands adjacent to the B.C. colony are available for acquisition. Therefore, the action of the 1st respondent is illegal and arbitrary. Hence, the present writ petition.

Heard the learned counsel.

While admitting the writ petition on 3.12.1998, this Court has directed to maintain status quo as on that day until further orders.

Despite the notices served on the respondents, they have not chosen to file any counter.

In the absence of any counter by the respondents, at this length of time, there is no other go except to hold that the averments made by the petitioners in the affidavit filed in support of the writ petition, shall have to be presumed to be correct. Hence, it is a fit case wherein the notification in question can be set aside.

Accordingly, the present writ petition is allowed setting aside the notification under section 4 (1) of the Land Acquisition Act published on 18.11.1998.

(Justice Gopalakrishna Tamada)

21st MARCH, 2007

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